IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.3973/07
Bhagwan Singh & Anr. Vs. SDO, Bhawani Mandi & Ors.

Date of order : 6/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Jitendra Kumar Sharma for the petitioners.

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The dispute is about the loan of Rs.5,13,000/- which is stated to have been advanced to the petitioners whereas the petitioners contend that they had taken the loan of Rs.3,67,000/- and the remaining amount was embezzled by Ajay Choudhary, the bank staff, therefore, the petitioner cannot be settled with the liability of making payment of the differential amount of loan inasmuch as their Tractor has been seized and the

respondents are bent upon attaching and auctioning their agricultural land.

On perusal of the record, it would be evident that in the backdrop of above facts, a criminal case was also registered in which though F.R. was submitted by the police but protest petition has been filed at the instance of the petitioners, which is pending. Learned counsel for the petitioners submits that petitioners never took any loan for purchase of trolley and that liability also cannot be fastened upon them.

In view of the above facts, it appears that the controversy involves disputed question of fact whether or not the petitioners had taken the loan of Rs.5,13,000/- or Rs.3,67,000/-. This controversy could be determined only

upon determination of such disputed facts by lead of evidence which cannot be appropriately gone into by this Court, but can be better determined by the civil court where the parties would have the opportunity to lead their evidence.

I therefore do not deem it appropriate to entertain this writ petition, involving such disputed questions of complex nature. The petitioners however would be at liberty to approach the civil court.

With these observations, the writ petition is dismissed as not maintainable.

(MOHAMMAD RAFIQ), J.

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